

Advisory Action

Application No.

09/123,145

Applicant(s)

SEKIGUCHI, KENZO 1-702

Examiner

Joseph R. Pokrzywa

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 December 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 19 December 2001. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached Office action for detailed discussion.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: _____.

Claim(s) rejected: 1-59.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DETAILED ACTION

Response to Appeal

1. An appeal under 37 CFR 1.191 was filed in this application on 12/19/01. Appellant's brief is due on 2/19/02 in accordance with 37 CFR 1.192(a).

Response to Amendment

2. The amendment filed 12/19/01 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because:

- a. The proposed amendment raises new issues that would require further consideration and/or search.
- b. The proposed amendment is not deemed to place the application in better form for appeal by materially simplifying the issues for appeal.

Regarding *claims 1, 13, 25, and 36*, the addition of the limitation of "a protocol signal of a facsimile communication protocol" raises new issues, not previously presented, requiring further consideration and search.

Regarding *claims 37 and 55*, the addition of the limitation "standard" protocol signal does not material simplify the issues for appeal, thereby not placing the application in a better form for appeal.

Regarding *claims 43, 47, and 56 through 59*, the addition of the limitations, like that of claim 43, stating “second instruction reception means for receiving an instruction that indicates a facsimile communication without reception of the instruction by the first instruction reception means”, and “processing means for processing the facsimile image data received by said facsimile reception means without performing the converting by said conversion means in a case where said second instruction reception means receives the instruction” raise new issues, not previously presented, requiring further consideration and search. Further, claims 47 and 56 through 59 add limitations similar to that of claim 43 above, also which raise new issues, requiring further consideration and search.

Response to Arguments

3. The examiner notes that **claim 54** remains unamended. Applicant's arguments do not include any remarks regarding claim 54. Because of this, the rejections of claim 54, as cited in the final Office action dated 6/19/01, under 35 U.S.C 102(e), as being anticipated by Houghton *et al.* (U.S. Patent Number 6,009,153), as well as being anticipated by Bloomfield (U.S. Patent Number 6,025,931), are maintained.

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Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (703) 305-0146. The examiner can normally be reached on Monday-Friday, 7:30-4:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (703) 305-4712. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

J.R.P.

Joseph R. Pokrzywa
Examiner
Art Unit 2622

jrj
January 3, 2002


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